

PROVIDING FOR AND REGULATING WATER CONTROL
AND IMPROVEMENT DISTRICTS.

H. B. No. 70.]

CHAPTER 107.

AN ACT to amend Section 3, Chapter 25 of the Acts of the 39th Legislature of the State of Texas, Regular Session, by providing for the control of waters by any mechanical means; and to amend Section 4, Chapter 25 of the Acts of the 39th Legislature of the State of Texas, by providing that the land composing water control and improvement districts may consist of separate bodies of land, separated by land not embraced in said district; and to amend Section 4, Chapter 25 of the Acts of the 39th Legislature of the State of Texas by adding sub-section 4a which provides a discretionary preference on the part of directors of districts in allotting waters to various uses; and to amend Section 19, Chapter 25 of the Acts of the 39th Legislature of the State of Texas by providing for action by Commissioners' Courts upon hearing of petition of water control and improvement districts; and to amend Section 32, Chapter 25 of the Acts of the 39th Legislature of the State of Texas by authorizing change of tax levy where new tax rolls are made for such districts; and to amend Section 37, Chapter 25 of the Acts of the 39th Legislature of the State of Texas by authorizing the election of five directors on the second Tuesday in January next after the district is formed, the three directors receiving the highest vote to serve for two years and the other two to serve for one year and thus in continuing sequence; and to amend Section 48, Chapter 25 of the Acts of the 39th Legislature of the State of Texas by authorizing districts to supply water for municipal uses and other beneficial uses or control, and to amend Section 53, Chapter 25 of the Acts of the 39th Legislature of the State of Texas by authorizing the control of floods; and to amend Section 76, Chapter 25 of the Acts of the 39th Legislature of the State of Texas by providing for the elimination of land from such districts; and to amend said Section 76 further by adding thereto Section 76a, providing for the elimination of cities, towns, villages or municipal corporations from such districts before bonds, other than preliminary bonds, have been voted; and to amend Section 78, Chapter 25 of the Acts of the 39th Legislature of the State of Texas by providing for the issuance of bonds of such districts, and to amend Section 79, Chapter 25 of the Acts of the 39th Legislature of the State of Texas by providing for the issuance of bonds of such districts; and to amend Section 80, Chapter 25 of the Acts of the 39th Legislature of the State of Texas by providing for the manner and method of giving notice of election to vote bonds for such districts; and to amend Section 85, Chapter 25 of the Acts of the 39th Legislature of the State of Texas by providing that an election shall not be held unless a petition signed by twenty per cent of the qualified electors is presented; and to amend Section 86, Chapter 25 of the Acts of the 39th Legislature of the State of Texas by providing for the issuance of bonds for such district; and to amend Section 89, Chapter 25 of the Acts of the 39th Legislature of Texas by removing the limitation on notes and bonds to be issued by districts; and to amend Section 95, Chapter 25 of the Acts of the 39th Legislature of Texas by providing for the validation of proceedings of the organization of such district and the issuance of bonds thereof; and to amend Section 125, Chapter 25 of the Acts of the 39th Legislature of Texas by empowering a district created under this Act to acquire and control properties for the carrying out of the purposes for which same was organized; and to amend Section 126, Chapter 25 of the Acts of the 39th Legislature of the State of Texas by extending the powers of eminent domain granted therein; and to amend Section 128, Chapter 25 of the Acts of the 39th Legislature of the State of Texas by providing the manner in which elections are to

be held; and further to amend Section 130, of Chapter 25 of the Acts of the 39th Legislature of Texas, Regular Session, and to enlarge and make clear the rights of any district created or operating under Section 52 of Article 3, and Section 59 of Article 16 of the Constitution of Texas, and especially said Chapter 25 of the Acts of the 39th Legislature of Texas, to vote upon the question as to whether taxes to be levied by said district shall be upon an ad valorem basis or upon a specific benefit basis; or upon an ad valorem basis as to part of the total tax to be levied, and upon a specific benefit basis as to some or any part of the tax to be levied; further to provide that when such a district has adopted either the ad valorem basis of taxation or the assessment of benefits basis of taxation, that the district may define areas within the district as to which peculiar and local conditions may require the construction of drainage, flood control or water supply works, or the alteration of land elevations, not affecting the district as a whole; that the districts shall have the power to construct such works, peculiar and local in character, and shall have the power to issue bonds for such purposes, either separately or as part of a general bond issue of the district; further to provide that taxes may be levied by the districts on a specific benefit basis, to be a lien on the land and property within the defined partial area of the district, in an amount sufficient to retire the bonds necessary to provide the works local and peculiar in character and to maintain the same. Further to designate the manner in which said bonds may be issued, such specific benefit assessment effected and such local protective works, water supply works or alteration of land elevations provided. Further to amend Section 141 of Chapter 25 of the Acts of the 39th Legislature of Texas and to enlarge and make more definite the rights of the Water Control and Improvement District to cooperate with other districts, agencies, bodies politic and persons, for the providing of water for beneficial uses and, or, for providing drainage and flood protecting works; further defining the manner of effecting cooperation; further authorizing all bodies politic within the State of Texas, when not in express contravention of some provision of the Constitution of Texas, to enter into contract for the joint construction of water supply, flood control, drainage works, or the alteration of land elevations needing correction, or to contribute to the cost of such works when to be constructed by another in proportion to the benefits to be effected for the contributor; further providing for cooperation in the construction of such works when to be constructed either within the State of Texas or in some other State or Nation; further to amend Section 143, Chapter 25 of the Acts of the 39th Legislature of Texas by providing for the conversion of improvement districts and irrigation districts into water control and improvement districts, and to amend Section 147, Chapter 25 of the Acts of the 39th Legislature of Texas by adding Section 147a, expressly validating all districts heretofore created and organized under this Act and the bonds issued thereunder; and to amend Section 147, Chapter 25 of the Acts of the 39th Legislature of Texas by adding Section 147b, providing for the recording of all orders and decrees in the office of the county clerk; and to amend Section 117, Chapter 25 of the Acts of the 39th Legislature by providing for contract by individual negotiation; and further, within the limitations of the Constitution of Texas, repealing all laws and parts of laws whether general or special, which may, and insofar as the same may, conflict with the provisions and objects of this Act; and declaring an emergency.

Be it enacted by the Legislature of the State of Texas:

SECTION 1. That Section 3, Chapter 25 of the General Laws of the 39th Legislature, be amended to read as follows:

Section 3. Water control and improvement districts may be organized under the provisions of Section 59 of Article 16 of the

Constitution for any one or more of the purpose therein provided as follows:

"Including the control, storing, preservation and distribution of its waters and flood waters, the waters of its rivers and streams, for irrigation, power and all other useful purposes, the reclamation and irrigation of its arid, semi-arid and other lands needing irrigation, the reclamation and drainage of its overflowed lands and other lands needing drainage, the conservation and development of its forests, water and hydroelectric power, the navigation of its coastal and inland waters, and the preservation and conservation of all such natural resources of the State," and such districts when organized shall have power to control any shortage or harmful excess of waters by any mechanical means.

SEC. 2. That Section 4, Chapter 25, of the General Laws of the 39th Legislature be amended to read as follows:

Section 4. Such districts may include the area of any county or counties, or any portion thereof, including towns, villages or municipal corporations. Such districts may include any county and number of counties or any political sub-division of the State, and defined district or parts of any or all counties in the State of Texas; and the land composing said districts need not be in one body, but may consist of separate bodies of land separated by land not embraced in the district; provided, however, that each segregated area must cast a majority vote in favor of the creation of the district before such segregated area can be included in the district.

Provided that no district provided for in this Act shall embrace territory situated in more than one county except by a majority vote of the property tax paying voters residing within the territory in each county sought to be embraced within said District.

SEC. 3. That Section 4, Chapter 25, of the General Laws of the 39th Legislature be amended by adding Section 4a to read as follows:

Section 4a. Districts organized under the provisions of this Act may in the discretion of their directors award use of waters of the district in the following order of preference and superiority, viz:

- 1st. Domestic and municipal use;
- 2nd. Industrial use, other than the development of hydro-electric power;
- 3rd. Irrigation;
- 4th. Development of hydro-electric power;
- 5th. Pleasure and recreation.

Where the welfare of the district may require, the directors of such district may withdraw water from an inferior use and appropriate such water to a superior use, as hereinabove given discretionary preference. Whenever such diversion or withdrawal will affect a vested right, such withdrawal or diversion

must be after condemnation proceedings as provided for in Section 126 of this Act.

SEC. 4. That Section 19, Chapter 25, of the General Laws of the 39th Legislature be amended to read as follows:

Section 19. If it shall appear on hearing by the Commissioners' Court that the organization of a district as prayed for is feasible and practicable, that it would be a benefit to the land to be included therein, and be a public benefit, or utility, the Commissioners' Court shall so find and grant the petition. If the court should find that such proposed district is not feasible or practicable, would not be a public benefit or utility, or would not be a benefit to the land to be included therein, or is not needed, the court shall refuse to grant the petition.

SEC. 5. That Section 32, Chapter 25, General Laws of the 39th Legislature be amended to read as follows:

Section 32. Said bond election may be held at the same time as the election held for the confirmation of the district or at such time thereafter as the directors shall provide. When such bonds have been authorized by an election, the directors may make an order for the issuance thereof in an amount not to exceed the amount stated in the notice of election. Said bonds may be made payable serially or upon amortization at any time within ten years from their date. At the time such bonds are issued a tax shall be levied sufficient to pay the interest thereon and provide for the payment of the principal thereof as same mature and to pay the cost of assessing and collecting such taxes.

If such tax levied is based upon the assessed value obtained from the county tax rolls, or the tax rolls of such district for the preceding year and new tax rolls be approved before the time for collection of taxes, the board of directors is authorized to change the tax rate so made at the time of the issuance of said bonds, provided that the new tax rate shall be sufficient when applied to the new assessed value to raise the same amount of money as the rate levied at the time when the bonds were issued would have raised upon the valuation taken into consideration in fixing such rate.

SEC. 6. That Section 37, Chapter 25, General Laws of the 39th Legislature be amended to read as follows:

Section 37. There shall be held a general election in said water control and improvement district on the second Tuesday in January next after the said district is formed at which time five directors for each district shall be elected. The three directors receiving the highest vote shall serve for two years. The other two directors shall serve for one year. At the second annual election two directors shall be elected to serve two years. At the third annual election three directors shall be elected to serve two years, and thereafter there shall be an annual election of two directors in one year and three directors in the next year in continuing sequence.

SEC. 7. That Section 48, Chapter 25, of the General Laws of the 39th Legislature be amended to read as follows:

Section 48. All districts shall have full power and authority to construct all plants, works and improvements necessary to the purpose for which it is organized and incident thereto. Water control and improvement districts may construct all works and improvements necessary for the prevention of floods, the irrigation of land in such districts, for drainage of lands and construction of levees to protect same from overflow, to alter land elevations where correction is needed, and to supply water for municipal uses, domestic uses, power and commercial purposes, and all other beneficial uses or controls.

SEC. 8. That Section 53, Chapter 25, of the General Laws of the 39th Legislature be amended to read as follows:

Section 53. Any district authorized under Section 59, Article 16, of the Constitution, with the object, among other things, of irrigating arid land, is hereby empowered through its board of directors to contract with the United States of America for the purpose of providing for the investigation, construction, extension, and operation and maintenance of any Federal reclamation project of benefit to the district and authorized under the National Reclamation Act of June 17, 1902, (32nd U. S. Statutes at large, page 388) and Acts now and hereafter amendatory thereof or supplementary thereto, and all herein styled the National Reclamation Law, and the securing of a district water supply therefrom, and to pay to the United States the agreed cost thereof in the form of construction charges, operation and maintenance charges, and water rental charges, as shown by such contract and in accordance with the terms and conditions of the National Reclamation Law, and the regulation now and hereafter promulgated thereunder. The construction charges may include the cost of drainage and flood control works necessary to control floods or to maintain the irrigability of district land, and the cost of incidental electric power and municipal water service made feasible through the water supply of the reclamation project. Every such contract involving the payment of construction charges to the United States shall be voted upon by the electors of the district as in the case of an issue of district bonds, and the provisions of this Act relating to the election upon, approval and validation of such bonds shall be followed so far as applicable, including the prosecution of an action in court to determine the validity of the contract. The notice of election shall state the maximum amount, exclusive of operation and maintenance charges, water rental charges, interest and penalties, payable by the district to the United States under the contract and the ballot shall contain the following words; and no others: "For contract with the United States of America and levy of taxes and payment therefor", and "Against contract with the United States of America and levy of taxes and payment therefor". Any such district may convey real property to the United States in connection with the construction or operation.

and maintenance of Federal Reclamation works used or to be used for the benefit of the district. Where a contract is made under this Section, between a district and the United States, providing for use by the district of Federal Reclamation Works, the district need not prepare or file any engineering data respecting the construction of such works. Until all monies receivable by the United States from any such district under any such contract shall have been fully paid, the boundaries of such district shall not be altered without the consent of the United States. Any such district contracting with the United States under this Section shall annually levy taxes sufficient in amount to provide payment of all installments of charges as required by the contract and the district may under authority of a vote of the district electors as, provided in this Act, apportion benefits and levy and collect taxes on a benefit basis instead of on an ad valorem basis, and may when provided by contract make payment of construction charges on the basis of the average gross annual acre income of the lands of the district or designated divisions or sub-divisions thereof, as such annual gross acre income is determined by the secretary of the Interior. The annual levies of assessments shall be sufficient to collect the amount of money required to meet all the district's obligations in full when due notwithstanding any delinquency in payment of assessments by any tract of land. If collections in any year prove insufficient to meet the obligations of the district, the levy shall be increased the following year to a sufficient extent to cover the deficit. The annual levies for payment of construction charges shall continue to be made each year against each tract of land in the district until the full amount apportioned against the same has been paid notwithstanding that such construction charges apportioned against other tracts of land in the district may sooner or later be paid out. The lien against district lands on account of any such contract with the United States shall be superior and dominant to the lien on account of any district bonds approved subsequent to date of such contract.

SEC. 9. That Section 76, Chapter 25, General Laws of the 39th Legislature, be amended to read as follows:

Section 76. Whenever a district shall have been organized and the directors shall find that land has been included within the boundaries of the district that should not have been included therein for the reason that same cannot be practicably and economically supplied with water from, or protected from flood by, the plant and improvements to be constructed by the district, or for other good reasons, and such facts are ascertained and determined before bonds, other than preliminary bonds, are issued, the directors may make an order entered on their minutes excluding such lands from the district and their finding shall be final and not subject to judicial review save and only upon the ground of fraud discovered after the entry of the order of exclusion. Notice thereof shall be given by publication of notice once a week for two consecutive weeks in a newspaper

having a general circulation in the county or counties in which such district is situated, or by notice in person or by registered mail, and the published notice shall be sufficient if directed to the owner or owners of the land and all others in anywise interested, without naming such owners. The owners of any such land may file protest thereto at any time within 30 days after the first publication of notice or receipt of notice, if delivered in person or by registered mail, and in the event of such protest such lands shall not be excluded therefrom unless it appears that water service, flood protection, or drainage cannot practicably and economically be rendered. In the event no protest thereto is filed, such order excluding such lands shall become and be effective 30 days from the date of the publication of the first notice, or the delivery of the notice in person or by mail, whereupon said order excluding such lands shall be filed for record in the office of the county clerk of the county in which such lands are located. When land is eliminated from the district under the provisions hereof after preliminary bonds have been issued, such eliminated lands shall, nevertheless, be liable for the necessary taxes, until same shall have been fully paid off and discharged. Provided, nevertheless, in the event that the preliminary bonds of said district, if any, are thereafter retired by other bond issues of the district, then there shall be no further liability on the part of the lands eliminated in accordance with the provisions hereof.

SEC. 10. That Section 76, Chapter 25, General Laws of the 39th Legislature, be amended by adding to Section 76 a subsection numbered 76a as follows:

Section 76a. Whenever a city, town, village, or municipal corporation shall have been included within any district heretofore or hereafter organized under the provisions of Chapter 25, Acts of the 39th Legislature, and amendments thereof, and if before bonds, other than preliminary bonds, are issued, it shall be found by the directors of such district upon investigation that such city, town, village, or municipal corporation will not be sufficiently benefited or cannot practicably and economically be served with water or protected from flood by the construction of the improvements contemplated by the district, the directors of such district may, after notice as herein provided, hold a public hearing on the question of whether or not such city, town, village, or municipal corporation shall be eliminated from such district. Notice of the time, place, and purpose of such public hearing shall be given by publication of notice once a week for two consecutive weeks in a newspaper of general circulation published in the county or counties in which such district is situated. At the time and place set forth in such notice, the board of directors of the district shall hear the evidence of any and all interested parties upon the matter of the proposed elimination of such city, town, village, or municipal corporation. Should the board of directors, upon hearing evidence, be convinced that it is for the best interest of such city, town, village,

or municipal corporation and, or, of the district, that such city, town, village, or municipal corporation be eliminated from the district, then the board of directors shall pass an order eliminating same, and their findings shall be final and not subject to judicial review, save upon the ground of fraud discovered after entry of the order of exclusion. A copy of such order duly signed and acknowledged by the president of the board of directors and attested by the secretary shall be thereupon filed for record in the office of the county clerk of the county or counties wherein such city, town, village, or municipal corporation is situated. Upon the entry of such order of elimination and the filing of same for record in the office of the county clerk, such order shall become effective and such eliminated city, town, village, or municipal corporation shall thereafter be relieved of any and all liability thereafter incurred by said district. Provided, nevertheless, that all property situated within such eliminated city, town, village, or municipal corporation shall be subject to the payment of any and all necessary taxes to pay off and discharge the interest on and principal of preliminary bonds of the district theretofore issued, if any, and the cost of collecting taxes therefor. In the event that the preliminary bonds of said district, if any, are thereafter retired by other bond issues of the district, then there shall be no further liability on the part of the property situated within said excluded city, town, village, or municipal corporation for the payment of such preliminary bonds.

SEC. 11. That Section 78 of Chapter 25, General Laws of the 39th Legislature, be amended to read as follows:

Section 78. Whenever a district shall have been organized and shall have adopted plans for the construction of a plant and improvements to carry out the purpose of its organization, it may issue bonds for the purpose of constructing same and paying all costs and charges incident thereto, including the cost of property deemed necessary therefor and the retirement of any and all preliminary bonds theretofore issued, if any. Before an election is held to authorize the issuance of bonds, there shall be filed in the office of the district, an engineer's report covering the plan and improvements to be constructed, together with maps, plats, profiles, and data fully showing and explaining same, and same shall be open to inspection by the public. The said engineer's report shall contain a detailed estimate of the cost of such improvements including the cost of purchase of any property to be purchased, and shall also contain an estimate of the time required to complete said improvements, so that service therefrom can be commenced. The directors shall consider and approve such report and may make changes therein and note same of record in their minutes. After such report shall have been filed and approved, with changes, if any, the board of directors may order an election to be held in the district for the purpose of authorizing the issuance of such bonds.

SEC. 12. That Section 79 of Chapter 25, General Laws of the 39th Legislature, be amended to read as follows:

Section 79. Such bonds may be issued so as to include and cover the cost of organization of the district, incidental expenses, the cost of investigation and making plans, engineer's work and other incidental expenses, including cost of retirement of preliminary bonds of the district, if any, theretofore issued, cost of issuing and selling bonds, estimated discount on the bonds, and cost of operation of the district for the period stated in the engineer's report, as estimated to be required for the construction of the plant and improvements to be constructed up to the time same shall be completed and service therefrom commenced, and as part of such costs there may be included in such bond issue a sum sufficient to pay the interest on the bonds during such period so stated in the engineer's report and not to exceed three years from the time such bonds are sold. An estimate shall be made by the board of directors in its order for the election of the total amount required to cover said items and such bonds may also be issued so as to include and cover any additional cost or expense which it may become necessary to add to the engineer's estimate by any change or modification made by the district in the proposed work, and in its order for the election the board of directors shall make an estimate covering any such additional cost or expense on account of any change or modification made by them in the proposed work. The maximum amount of bonds to be issued shall not exceed the amount of said engineer's estimate, together with the amounts of the estimate so made by the board of directors in its order. Such order shall state the proposed maximum interest rate on said bonds and the maximum maturity date of said bonds, and shall state the time and place or places of holding the election and the names of the officers of election. The bonds so voted upon may be issued to mature at the end of a term of years, or to mature in serial form at any date, not to exceed the maximum maturity date stated in the order for the election and may be issued at any rate of interest, not to exceed the rate of interest stated in such order, and in no event to exceed 6 per cent per annum. The proposition to be voted upon shall be that of the issuance of the total amount of bonds covered by the amount of the estimate made in the engineer's report and the estimates which may be made by the Board of Directors, as hereinbefore provided.

SEC. 13. That Section 80, Chapter 25, General Laws of the 39th Legislature be amended to read as follows:

Section 80. Notice of election, stating the maximum amount of bonds to be issued and the proposed maximum interest rate thereon and the maximum maturity date of said bonds and the time and place or places of holding the election, shall be given under the hand of the president and secretary of the Board of Directors, by publication of such notice once a week for four consecutive weeks in some newspaper having general circula-

tion in the county or counties in which said district, or any part thereof, is located, the first of which publication shall be at least twenty-eight days before the date of such election. Such notice shall contain substantially the proposition to be voted upon and shall contain a summary of the engineer's estimate of the cost of the proposed improvements, as shown by his report provided for in Section 78, and shall also contain a statement showing any estimate or estimates made by the Board of Directors in its order for the election covering sums to be included in the proposed bond issue.

SEC. 14. That Section 85, Chapter 25, General Laws of the 39th Legislature be amended to read as follows:

Section 85. The Board of Directors of any district which has been or shall be organized under the provisions of Section 59 of Article 16 of the Constitution, may for the benefit of the purchasers, or holders, of bonds to be issued or sold, limit the power of the district to incur debt or issue bonds in the manner and to the extent hereinafter provided. Said Board may adopt a resolution declaring that during a period of not exceeding fifteen years the district shall not issue bonds in excess of twenty-five per cent of the assessed value of the taxable real property of the district according to the last assessment for district purposes, or not in excess of a fixed sum, or only for certain named purposes, and shall give notice of the adoption of such resolution by publication once a week for two consecutive weeks in a newspaper having general circulation in the district stating that such resolution shall take effect unless a petition signed by twenty per cent of the qualified tax paying electors of the district shall be presented against the proposed limitation within twenty days after the date of the first publication of such notice. If such petition or remonstrance be filed within said period, such limitation shall not take effect unless it is approved at an election held in the district. The ballot on the question at such election shall be substantially in the following form: "For limiting during the term of.....years, the maximum debt of the district to.....," and "Against limiting during the term of.....years the maximum debt of the district to....." The blank space therein shall be properly filled in to show the purpose of the election.

If such limitation shall be approved, or if during said period no petition or remonstrance shall be filed the district shall not issue bonds under any statute or constitutional provision during said term in excess of the amount so limited, except for the necessary repair of, or to complete, works for construction of which bonds may be issued within each limitation and shall only issue bonds exceeding such limitation for said purpose after the State Board of Water Engineers shall have approved same and the plans and specifications for same, with the estimate of the cost thereof. If such plans and specifications and estimate be approved by said State Board of Water Engineers, notice of intention to issue such bonds, stating the purpose thereof, shall

be given by publication once a week for three consecutive weeks in a newspaper having general circulation in the district, stating the amount of the proposed issue of bonds and the time a hearing will be had, which time shall not be less than 30 days from the first publication. Any tax payer, bond holder or other person interested may appear and shall be heard.

Said hearing to be held by the Board of Directors of the district. If the determination be in favor of the issuance of such additional bonds for the amount and for the purpose stated in the notice, the question of issuing such bonds shall be submitted to the property tax paying voters at an election held in the form and manner provided by law. Only resident voters who are property tax payers shall vote at such election as provided by the provisions of the Constitution.

SEC. 15. That Section 86, Chapter 25, General Laws of the 39th Legislature be amended to read as follows:

Section 86. The bonds issued under the provisions of this Act shall be issued in the name of the district, signed by the president and attested by the Secretary, with the seal of the district affixed thereto, and said bonds shall be issued in denominations of not less than one hundred dollars not more than one thousand dollars each, and such bonds shall bear interest at the rate of not to exceed six per cent per annum, payable annually or semiannually. Such bonds shall by their terms provide the time, place or places, manner and condition of their payment and the interest thereon, as may be determined and ordered by the directors of said district and none of such bonds shall be made payable more than forty years after the date thereof, provided that the lien for the payments due the United States under any contract between the district and the United States accompanying which bonds have not been deposited with the United States, shall be a preferred lien to that of any issue of bonds or any series of any issue subsequent to the date of such contract.

SEC. 16. That Section 89 of Chapter 25 General Laws of the 39th Legislature be amended to read as follows:

Sec. 89. Whenever such district shall have constructed or purchased improvements and same may be damaged so that it may be necessary to raise funds to repair such damage, said district may either issue bonds to secure such funds or may issue its notes to run not to exceed twenty years, and to bear interest at not to exceed six per cent per annum. Before such notes are issued the board of directors shall order an election and give notice thereof as required in bond issues stating the purpose for which they are to be issued, the time they are to run, and the rate of interest they are to bear, and the time and the place of said election. The ballots for such election shall have printed thereon, "For issuance of notes" and "Against issuance of notes." The election shall be held and returns made and canvassed as provided for bond elections. If a majority of those voting at such election voted in favor of the issuance of such bonds or notes, the board of directors may issue and sell

same for the benefit of said district. At the time such bonds or notes are issued or sold the board of directors shall levy a tax for the purpose of paying the interest thereon and creating a sinking fund to pay such interest and to pay such bonds or notes within the time of their maturity. Said notes shall be issued in serial form to mature in installments as determined by the directors.

SEC. 17. That Section 95 of Chapter 25 General Laws of the 39th Legislature be amended to read as follows:

Sec. 95. Whenever any district shall have issued bonds, including preliminary bonds, as herein provided, and may desire to validate same by suit, as hereinafter provided, such suit may be filed for the validation of the organization of such district and of such bonds and after the rendition of a final judgment therein said bonds or contract shall be incontestable and no suit shall be brought in any court of this State contesting or enjoining the validity of the formation of any such district or any bonds issued thereby, or contesting or enjoining the validity of any contract with the United States or of authorization thereof by the district, except in the name of the State of Texas, by the Attorney General upon his own motion or upon the motion of any party affected thereby upon good cause shown. No such suit shall be filed or prosecuted by the Attorney General unless based upon allegations of fraud disclosed or found after the rendition of a final judgment in such validation suit. If such validation suit is filed it shall not be necessary to have said bonds approved by the Attorney General as herein otherwise provided.

SEC. 18. That Section 125 Chapter 25 General Laws of the 39th Legislature be amended to read as follows:

Sec. 125. Districts created under the provisions of this Act are hereby empowered to own reservoirs, dams, levees, flood control retarding works, hydroelectric works, and a distributing system therefor, wells, canals, laterals, sites for pumping plants, sites for settling basins, and, all other properties plants and improvements necessary or proper or incident to the carrying out of the purposes for which same were organized, and to buy or construct the same, and to acquire the necessary rights of way for, or land for, the same by gift, grant, purchase or condemnation, and they may acquire the title to any and all lands necessary or incident to the successful operation thereof, in addition to any of the above, in the manner provided, including the authority by purchase or condemnation, to acquire rights of way for the enlargement, extension or improvement of any existing canals or ditches. Any property acquired may be conveyed to the United States in so far as the same shall be necessary for the construction, operation and maintenance of works by the United States for the benefit of the district under any contract that may be entered into thereunder.

SEC. 19. That Section 126 Chapter 25 General Laws of the 39th Legislature be amended to read as follows:

Sec. 126. If it shall appear on hearing by the Commissioners' Court of each County, containing territory to be included in the district sought to be organized or prayed for is feasible and practicable, that it would be a benefit to the land to be included therein and be a public benefit or utility, the Commissioners' Court shall so find and grant the petition if the Court shall find that such proposed district is not feasible or practicable nor be a public benefit or utility, or is not needed, the Court shall refuse to grant the petition.

SEC. 20. That Section 128 Chapter 25 General Laws of the 39th Legislature be amended to read as follows:

Sec. 128. Two or more districts may jointly own and construct irrigation works and reservoirs, levees, flood control retarding system, drainage systems and all other plants, works and improvements, which they are authorized to own or construct, under the terms and conditions to be set out in a written contract. Any such contract shall not be binding until same shall have been ratified by a majority vote of each of such districts. An election shall be held in each of such districts upon the same day to determine whether such contract shall be adopted. Notice of such election shall be the same as that required for the formation of a district under this Act. Such contract shall be printed or in writing and a true copy thereof shall be filed in the office of each district fifteen days prior to such election, and be subject to public inspection, and one true copy of same shall be furnished to each voter calling for same at such office at any time within fifteen days prior to such election. When improvements are constructed by two or more districts, bids may be jointly called for and opened and considered at the designated office of either of such districts, and such districts shall approve the letting of the contracts and the contractor's bond, and may meet for that purpose at a place outside of their district, or at any office established for such joint project and at which office all business of such joint project may be transacted, all bids, bonds, contracts, etc., of such joint project may be in the names of such joint project districts, such districts being empowered and authorized to do all acts by joint action that one district may do. The action of each district being determined by its board of directors, a general manager may be employed by such joint enterprises whose duties may be set forth in the joint ownership contract.

The terms and conditions of such joint ownership contract shall not conflict with the provisions of law providing for the organization and conduct of districts, but may include provisions for joint construction and operation of same. Such contracts may be amended in the same manner as made.

SEC. 21. That Section 130 of Chapter 25, General Laws of the 39th Legislature, be amended to read as follows:

Sec. 130. Any district organized under authority of section 59, Article 16, of the Constitution of Texas, and as well any district which may have been created prior to the adoption of

such Constitutional Amendment, and which has availed, or which may hereafter avail, itself of the benefits of said Section 59 of Article 16, may at the time of its creation, or at any time thereafter, before such districts may have issued bonds, submit to the qualified elector of such district the question whether the taxes to be levied therein, shall be levied, assessed and collected upon an ad valorem basis; or whether the taxes to be levied, assessed, and collected shall be upon the basis of specific and equitable assessment in proportion to the benefits to be conferred; (a) or whether the tax to be levied or assessed and collected shall be on an ad valorem basis as to some part of the total tax required, and upon an equitable or specific assessment of benefits as to some defined part of the area of the district, or as to some designated part of the total tax required; (b) if the directors of a district wish to submit to the electors of their district the question as to whether the tax shall be in part ad valorem and in part upon the basis of equitable and specific assessment in proportion to benefit, they shall by resolution entered in their minutes designate what part of the tax is proposed to be on each basis; they shall also designate the peculiar physical or economic conditions, or peculiar diverse local needs of different areas within the district which make it equitable or expedient to levy part of the total tax upon the specific or equitable assessment of benefit basis. (c) If the proposed assessment of the tax upon an equitable, specific benefit basis is to apply only to some defined part of the district, the directors of a district shall in their minutes define the area and fully set out the peculiar local needs of the defined part of the district to which the peculiar assessment of specific benefits is proposed to apply. This finding shall be based upon distinctive local need of water supply, local drainage, local flood protection or altering land elevations needing correction, one or all, and not generally affecting the districts as a whole. Their findings further shall fix the sum of money required to provide the works needed to protect or serve the peculiar local conditions within such defined part of the district upon which it is proposed to assess a tax upon an equitable benefit basis which tax may or may not be in addition to other taxes levied by the district on property within the defined area. It is provided however, that the proportional tax, or income, contributions of a defined area, either by water use or other tax levies of the district, may be taken into consideration in assessing benefits in the defined area. (d) Such questions shall be submitted to the qualified voters of such district at any time, in the manner, and after the notice provided by law under which the district is created with reference to the issuance of bonds by it. Such election may be held at the time of the election of directors, and the question of taxation may be on the same ballot as that provided for the election of directors. (e) If the directors submit the question as to whether the tax shall be on an ad valorem basis or on a specific benefit basis, then notice of the election shall so state and the ballot shall have

printed thereon in substance the following: "For levy of taxes on a basis of the assessed value of property," and "For the levy of taxes on a specific benefit assessment basis." (f) If the directors wish to submit to the voters the question whether some designated part of the total tax proposed shall be on an ad valorem basis and the remainder on the basis of specific benefits, the notice of election shall in addition set out in full the minutes of the directors setting up the respective amounts and the reasons on which the proposed allocation of taxes has been based; also the ballot used shall have printed thereon in substance the following: "For the levy of _____ per cent of a total tax on a basis of the assessed value of property, and _____ per cent on a specific benefit basis," and, "Against the levy of _____ per cent of a total tax on a basis of the assessed value of property, and _____ per cent on a specific benefit basis." (g) The directors of a district shall not have power to assess a specific benefit tax on a defined area within a district unless the owners of more than fifty per cent of the real estate, either in acreage or in value, located within the area proposed to be defined and taxed for peculiar local improvements or benefits, do file with the board a petition signed by such owners or owner. Upon receipt of such petition the directors may give notice either by posting notice at some public place in said area proposed to be defined, or by publishing notice in a newspaper having general circulation in said area. Notice shall be given ten full days before the time set for hearing by the board and shall state the time and place of hearing. (h) The board shall hear evidence for or against the creation of the proposed defined area. They shall grant or deny the petition upon the grounds set out in Section 19 of said Chapter 25. (i) If no such appeal is perfected within said ten days, or after final decision of such appeal, the board may at any time order an election to be held within the district to confirm the designation of the area and to authorize the issuance of bonds and the levy of tax on the property within the defined area on the specific benefit basis, in order to provide the works necessary to serve the area to be defined. The area defined shall be for the purpose of this election a separate voting precinct. (j) The notice of election and manner of holding it, and the qualification of electors, shall be the same as for the issuance of bonds by such district. The notice shall, in addition to other requirements, set out in full the minutes giving the findings of the board as to the peculiar needs of the area defined, the works to be provided and the sum required to provide the works proposed. At such election the ballot shall have printed thereon in substance the following: "For designation of the area, the issuance of bonds, and the levy of a tax upon the specific benefit basis within the defined area," and, "Against such designation, the issuance of bonds and levy." (k) If the majority vote in the defined area is in favor of the proposal the directors of a district shall declare the result of the election by order in their minutes giving accurate description of the boundary of the de-

defined area. A copy of this order properly certified shall be recorded in the deed records of the county or counties in which the defined area may lie. (l) If a majority vote within the defined area favors the issuance of such bonds the directors may issue bonds, assess benefits, levy and collect taxes to retire the bonds and to maintain the works designed to serve the defined area, and shall administer the business of said defined area as part of their duties as directors under the applicable provisions of said Chapter 25 of the Acts of the 39th Legislature. (m) If a majority of the vote in the whole district favors the creation of a defined area, or areas, within the district, then and in that event, and if the sums derived from the assessments and levy of specific benefit taxes within the defined area are not in any year sufficient to meet the obligations of the district for any given year under the bonds issued for the benefit of a defined area or areas, then the succeeding year the directors of the district shall levy upon the district as a whole a supplemental ad valorem tax or specific benefit assessment tax sufficient to protect the defaulted obligations under said bonds. In case of such levy or assessment to protect the deficiency the district shall reimburse itself by enforcement of its tax lien, hereby created, upon the property located in the defined area. The taxes in such defined area shall be levied, assessed and collected, as provided for by Sections 132 and 133 of said Chapter 25 of the Acts of the 39th Legislature. (n) The fact that bonds have been issued and sold by the district shall not prevent the creation of a defined area as provided herein, and the issuance of bonds for the specific benefit of such designated area, and to be retired by the assessment of specific taxes in such defined area. (o) Save as herein provided the issuance and sale of such bonds based on a defined area shall be in accordance with the provisions of said Chapter 25 relating to the issuance and sale of other bonds by the district.

SEC. 22. That Section 141 Chapter 25 General Laws of the 39th Legislature, be amended to read as follows:

Sec. 141. Any district organized under the provisions hereof shall have authority to seek and solicit cooperation, donations and contributions from the United States Government, the Government of the State of Texas, or any other State or Nation, any county, municipality, water improvement district, water control district, drainage district, or any other political subdivision of Texas, any person, co-partnership, corporation or association and may incur reasonable expense to procure such cooperation, both with reference to adding to the area of the district or with reference to the contributions to the cost of the improvements undertaken by the district in such manner that the contributions would be either upon a percentage of cost, or a definite annual sum basis. (a) Any water improvement district, water control and improvement district, levee improvement district, county, city, town or other body politic within the State of Texas now organized or which may be hereafter

organized shall have the power to enter into contract for contribution to the cost of the construction of drainage, flood control or water supply works, or the changing of the land elevations needing correction, to be constructed beyond the boundaries of the contributing district, municipality, or other political subdivision of the State of Texas, and to so contribute even though such works may be located beyond the boundaries of Texas or of the United States, and by whomsoever such works are to be constructed. Such contribution shall be in proportion to the extent that the proposed works will be a benefit to the contributor. (b) Such contract may provide for the issuance of bonds by the contributor and direct payment to contractors upon the estimates of the engineer for the contributor, out of the proceeds of such bonds. If bonds are to be issued by a body politic the contributor shall submit the contract for contribution to its qualified electors for approval and for authority to issue the bonds, fix a lien to secure the bonds and to levy, assess and collect taxes to retire the bonds. All such procedure by a contributing political sub-division of Texas shall be in conformity to the applicable law under which such contributing body politic has its being and may create bonded indebtedness. The disposition of the proceeds of such bonds shall be in conformity to the approved contract of contribution. (c) Such contract for contribution may provide that in lieu of the issuance of bonds the contributor may provide for the levy, assessment and collection of an annual tax in a specific sum to be a lien on the property within the contributor's taxing power, which tax shall be collected by the contributor at its own expense, and annually paid to the constructor of the works to which the contribution is to be made, and such annual payment shall be held as a trust fund by the constructor of the proposed works and applied annually by such constructor upon the bonds issued by it to provide funds for the construction of the works to which contributions is to be made. (d) Such contract shall be submitted by the contributor to its qualified electors for approval and for authority to levy and assess a tax sufficient to meet the annual payments fixed in the contract of contribution. Such levy or assessment shall be a lien on the property subject to the contributor's taxing power. The election for the approval of the contract and the authorized taxes for the fulfillment of the contract shall be held in conformity to appropriate law under which such contributing body politic has its being and may create bonded indebtedness. Payment of the annual sums of contribution shall be in conformity to the contract of contribution. (e) If the proposed contributor has any fund not otherwise appropriated, or any fund not required for actual use, even though otherwise appropriated, the said fund may be withdrawn from the appropriation not needing the fund and the same or either of the same may be applied in payment of contributions to the cost of the works deemed to be a benefit to the contributor, but to be constructed by another, or jointly by

the contributor and another. Contributions from such an unappropriated, or available fund shall be within the powers of the governing officers of the contributing body politic, who are hereby authorized to enter into contract for contribution, and to contribute, without submitting the same to a vote of the qualified electors of the contributor. Such contribution shall not however be made in any case where the contribution would impair the ability of the contributor to meet any outstanding obligation or to well and economically discharge contributors duty to its electorate or constituency.

SEC. 23. That Section 143 Chapter 25 General Laws of the 39th. Legislature be amended to read as follows:

Sec. 143. Any water improvement district, levee improvement district, irrigation district, or other conservation and reclamation district heretofore organized, or hereafter to be organized, under the provision of Section 59 Article 16, or Section 52 of Article 3 of the State Constitution, may become and be converted into a water control and improvement district in the following manner: The Board of Directors, supervisor or other governing body of such district shall adopt a resolution declaring that in their judgment it is for the best interest of such district, and will be a benefit to the lands and property included in said district to become a water control and improvement district, and to operate under the provisions of Article 16, Section 59, of the Constitution of Texas. Such resolution shall be entered in their minutes. Notice of the adoption of such resolution shall be given by publication thereof in a newspaper having general circulation in the county or counties in which the district is situated. Such notice shall be published once a week for two consecutive weeks. The first publication must appear not less than fourteen full days prior to the time set down for a hearing. Notice shall state the time and place of the hearing and shall set out the resolution in full. It shall notify all interested persons to appear and offer testimony for or against the proposal contained in the resolution. If, upon a hearing, the board of directors, board of supervisors, or other governing body, find that it would be for the best interest of the district to be converted into a water control and improvement district, and would be a benefit to the lands and property situated in said district, then, and in that event, they shall enter their order so finding, and said district shall thereupon become a water control and improvement district. If they find that it would not be for the best interest of the district and would not be a benefit to the lands and property situated in the district, they shall so find and enter their order against conversion of the district to a water control and improvement district. The findings of said board of directors, board of supervisors, or other governing body, shall be final and not subject to appeal or review. All water improvement districts, levee improvement districts and other districts referred to in this section which shall become and be constituted a water control and im-

provement district under the provisions hereof shall be a conservation and reclamation district under the provisions of Section 59 Article 16 of the State Constitution and shall thereafter be governed by this Act, and any amendments hereof hereafter adopted, and shall have and may exercise all the powers, authority, functions and privileges herein provided in the same manner and to the same extent as if same had been organized under the provisions hereof.

SEC. 24. That Section 147, Chapter 25, General Laws of the 39th Legislature, be amended by adding Sections 147a and 147b as follows:

Section 147a. All water improvement districts which have heretofore complied with the requirements of Chapter 25 of the Acts of the 39th Legislature relating to converting such districts to water control and improvement districts are hereby declared to be valid water control and improvement districts just as though they had been originally organized under the provisions of said Chapter 25 of the Acts of said 39th Legislature, and further all water control and improvement districts as now defined and bounded, the validity of which is not now being contested in any of the courts of this State, are hereby declared to be valid water control and improvement districts and to have the powers and duties defined in and granted by Chapter 25 of the Acts of the 39th Legislature of Texas, and as well to have any powers and duties which may be hereafter defined in or granted by any Act amending said Act. All bonds issued by such districts, which have been declared valid by a judgement of the district court, and not appealed from, or by a judgement of the district court affirmed on appeal, or by the Attorney General of this State, shall be and are held to be valid and binding obligations of such districts and not subject to attack except for fraud.

147b. All proceedings of the directors of a district and all decrees and orders of any court affecting the formation, boundaries or validity of such district must be recorded in the office of the county clerk of each county in which such district is located in a special record book kept for that purpose. This recording is to be in addition to other recording provisions in this Act contained.

SEC. 25. That Section 117, Chapter 25, Acts of the 39th Legislature, be amended to read as follows:

Section 117. Contracts for making and constructing the plants, works and improvements of the district shall be made by the directors to the lowest responsible bidder. It is provided however, that if the owners of two-thirds or more of the land located in the district, either in acres or in value, or if two-thirds or more of the qualified electors of said district, do sign a petition to the directors in the district requesting that the contract for the construction of the plants, works and improvements be entered into by the directors by individual negotiation and not by advertisement for bids, then and in that event the

directors of the district may, in their discretion, enter into such contract by individual negotiation. In the event the contract is not to be so entered into however, the directors of the district shall give notice of the letting of the contract by advertising the same in some one or more newspapers having general circulation in the State of Texas and also in one newspaper having general circulation in the county in which such district or part thereof is situated and in one newspaper published in said district, if there be a newspaper published therein. Such notice shall be published once a week for four consecutive weeks prior to the date upon which said contract is let. The provisions of this Section shall not apply in case of any contract between the district and the United States.

SEC. 26. Be it further enacted, that within the limitations of the Constitution of Texas, all laws and parts of laws, general or special, which may, and in so far as the same may, conflict with the provisions and objects of this Act, are hereby repealed.

SEC. 27. The fact that the creation, operation and use of water by water control and improvement districts result in the material benefit and improvement of the State of Texas and in the increase of taxable values of the property therein resulting in great benefit to the State, and the fact that the present law relating to such districts is inadequate, creates an emergency and imperative public necessity that the Constitutional Rule requiring bills to be read on three several days be and the same is hereby suspended and that this Act take effect and be in force from and after the passage thereof, and it is so enacted.

Effective 90 days after adjournment.

[H. B. No. 70 passed the House 105 yeas, 0 nays; passed the Senate by a viva voce vote. Said bill was received in the Executive office June 7, 1927, and was received in the Department of State June 18, 1927, without the Governor's signature.]